



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

JJD/SDD
F. #2012R00095

*610 Federal Plaza
Central Islip, New York 11722*

January 3, 2017

By Hand and ECF

Honorable Denis R. Hurley
United States District Court
Eastern District of New York
610 Federal Plaza
Central Islip, New York 11722

Re: United States v. Justin Kaliebe
Criminal Docket No. 13 CR 00072 (DRH)

Dear Judge Hurley:

On January 3, 2017, the Court issued an order, via ECF, noting that, "In the government's December 8, 2016 sentencing letter, the Court is advised that it 'may impose a term of supervised release up to life.'" The Court further observed that, "The Probation Department, however, is of the view that the supervised release term may not 'exceed three years on counts 1 and 2.'" (quoting the Nov. 21, 2013 PSR para. 92) (citing 18 U.S.C. § 3583(b)(2)). The Court thus directed the government to provide the Court with authority in support of its position no later than 5:00 p.m. on Thursday, January 5, 2017.

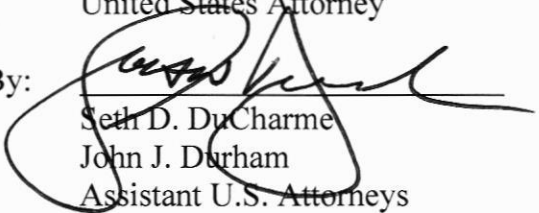
In short, the Probation Department is mistaken. Title 18, United States Code Section 3583(j) expressly provides: "Supervised release terms for terrorism predicates.-- Notwithstanding subsection (b), the authorized term of supervised release for any offense listed in section 2332b(g)(5)(B) is any term of years or life." 18 U.S.C. § 3583(j) (emphasis added). Here, both counts of conviction are terrorism predicates under Section 3583(j) because violations of Title 18, United States Code, Sections 2339A (relating to providing material support to terrorists) and 2339B (relating to providing material support to terrorist organizations) are among the federal crimes of terrorism specifically listed in Title 18,

United States Code, Section 2332b(g)(5)(B)(i). Accordingly, the maximum term of supervised release for each count is life and paragraph 92 of the Presentence Investigation Report should be amended.

Respectfully submitted,

ROBERT L. CAPERS
United States Attorney

By:



Seth D. DuCharme
John J. Durham
Assistant U.S. Attorneys
(718) 254-6021/(631) 715-7851

cc: Anthony La Pinta, Esq. (By ECF and email)
USPO Steven Guttman (By email)